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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,046	09/09/2003	George William Muncaster	PF01874NA C01	1961

20280 7590 10/07/2005

MOTOROLA INC
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EXAMINER

VIG, NARESH

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/658,046	Applicant(s) MUNCASTER ET AL.	
	Examiner Naresh Vig	Art Unit 3629	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 07 September 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

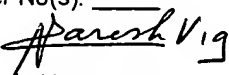
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 9-11, 14-22 and 24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


Naresh Vig
Examiner
Art Unit: 3629



Continuation of 11, does NOT place the application in condition for allowance because:

Applicant's arguments are not persuasive.

In response to applicant's argument regarding claims 9 and 24 that 35 U.S.C. § 112 requires disclosure of critical or essential elements of an invention in the specification of a patent application, but does not require such critical or essential elements to be in the claims per se. However, applicant claims the limitation wirelessly communicating information about the real estate property; Applicant has not claimed whether this information is programmed in to the lockbox at the time of manufacture, or, it entered into the electronic box. When and how is the information communicated. For example, it is not clear whether the information is broadcasted or communicated upon request. If the information is communicated upon request, then, applicant has not claimed the limitation of the lockbox communicating the request to a user after receiving the request from the user.

In response to applicant's argument that regarding claims 9,22 and 24 that rejection under 35 U.S.C. §112, second paragraph that claimed invention is not clearly claimed whether the electronic lock box holds keys, can store and process information, and is a communication bridge or router. For example, if the lockbox is capable of holding information, how is this information provided to the lockbox, if the lockbox is able to communicate, is it continuously broadcasting the information, or, it communicates the information after receiving request from a user. Applicant is not clearly claiming the invention to function as applicant claims to have disclosed in the specification.

In response to applicant's argument that above Office Action does not properly cite a reference identified at "SupraKey". Apparently, based on text at page 5 of the above Office Action, SupraKey is a security product of the General Electric Company. The Examiner has not properly cited this reference on USPTO Form PTO-892, which requires a publication date for determination of whether it may be considered prior art relative to the present invention. However, in the office action, applicant referred to the SupraKey product as an example as provided the website address where the applicant can get the information about the SupraKey product. Examiner has attached a News Release "Supra introduces new eKey portable, digital organizer enhance Realtor professionalism and productivity" from General Electric which provides information about the Supra Products.

In response to applicant's argument that cited references Henderson, et al., Deighton, et al. ("Deighton, et al. patent") and Piatek, et al. fails to an electronic lock box that wirelessly communicates information about the real estate property, including at least one of the group comprising a price of the real estate property, a square footage of the real estate property, a virtual tour of the real estate property, a number of bedrooms within the real estate property and an availability of the real estate property. Applicant has not clearly claimed how this information is stored into the lockbox for the lockbox to be able to provide information about the property.

Examiner came across these references during search for other applications. Applicant is requested to consider the references fully when responding to this office action.

1. Supra introduces new eKey portable, digital organizer enhance Realtor professionalism and productivity
2. Harold et al. US Patent 6,472,973